UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,810	07/28/2003	Stephen A. Tarin	8676-042	7914

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EXAMINER
DWIVEDI, MAHESH H

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
04/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	**Applicant(s)**
Advisory Action *Before the Filing of an Appeal Brief*	10/629,810	TARIN, STEPHEN A.
	Examiner	**Art Unit**	
	Mahesh H. Dwivedi	2168	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>05 March 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ · The period for reply expires <u>3</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: <u>25-31</u>.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

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SUPERVISORY PATENT EXAMINER
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Patent Examiner, AU 2168
03/28/2007

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's request for reconsideration filed on 03/05/2007 is acknowledged, but is not persuasive. Applicant's argue on page 4 that "applicant maintains that Mehta fails to disclose "the database having been compressed by storing information regarding distinct values of an attribute and information regarding the number of occurrences of distinct values". In response to applicant's arguments, the recitation "the database having been compressed by storing information regarding distinct values of an attribute and information regarding the number of occurrences of distinct values" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See In re Hirao, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Applicants go on to argue on page 5 that "Mehta fails to disclose "retrieving information regarding the number of occurrences of a given value," wherein the "database having been compressed by storing...information regarding the number of occurrences of distinct values". However, the examiner wishes to state that independent claim 25 merely recites the limitation "retrieving information regarding the number of occurrences of a given value". Moreover, the examiner wishes to state that Mehta clearly teaches retrieving the number of occurrences of a given value (see page 7 of final office action mailed on 10/16/2006). Moreover, Mehta teaches the aforementioned limitation as "Fetch logic seven is for determining the number of instances of data structures of a selected type from the number of instances of a referenced data structure" (Column 14, lines 5-7). The examiner further wishes to state that as a result of the broad language of independent claim 25, determining the number of instances of a referenced data structure broadly teaches "retrieving information regarding the number of occurrences of a given value". Applicants go on to argue on page 6 that "identifying the number of instance" as disclosed in Mehta, is plainly different from "determining an instance element." An "instance element", in applicant's claim 25, is obtained as part of the distinct process, which involves compressing a database by storing specific information therein, and then performing, for example, steps (a) and (b) recited bin the claim". However, the examiner wishes to state that independent claim 25 merely recites the limitation "determining an instance element based on information regarding the number of occurrences of the given value". The examiner further wishes to state that no definition nor explanation of what an instance element is, is recited in claim 25. As a result, the wishes to state that the determining the number of instances of Mehta broadly teaches determining an instant element.